

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

BRENT ELISENS,)
vs.)
Petitioner,)
vs.) NO. CIV-12-749-D
UNITED STATES OF AMERICA,)
vs.)
Respondent.)

O R D E R

Petitioner, a federal prisoner appearing *pro se*, brought this action seeking habeas corpus relief pursuant to 28 U. S. C. § 2241. In accordance with 28 U.S.C. §636(b)(1)(B), the matter was referred to United States Magistrate Judge Bana Roberts for initial proceedings.

On July 13, 2012, Judge Roberts filed a Report and Recommendation [Doc. No. 7] in which she recommended that the Petition be denied upon filing because it was not filed in the district in which Petitioner is confined. Although Petitioner was sentenced in this Court by the Honorable Robin Cauthron, he is confined in Virginia. Accordingly, his petition for habeas relief must be filed in the federal court for the district encompassing the location where he is incarcerated. *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996). Accordingly, Judge Roberts correctly recommended that the action be dismissed without prejudice to its refiling in the proper judicial district.

In the Report and Recommendation, Judge Roberts advised Petitioner of his right to object to the same, and she further advised that his failure to timely object would constitute a waiver of his right to appeal the findings and conclusions in the Report and Recommendation. She scheduled an August 2, 2012 deadline for filing an objection.

Petitioner did not object to the Report and Recommendation. Although he filed a Revised Petition for Writ of Habeas Corpus [Doc. No. 9], he did not reference the Report and

Recommendation. Furthermore, the revised petition does not cure the deficiency noted by Judge Roberts, as it expressly states he is seeking habeas relief, and his request for such relief must be filed in the proper forum.

Accordingly, the Report and Recommendation [Doc. No. 7] is adopted as though fully set forth herein. This action is dismissed without prejudice to its refiling in the proper federal district court.

IT IS SO ORDERED this 19th day of November, 2012.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE